

REMARKS

Upon entry of the foregoing Amendment, claims 1-27 are pending in the application. Claims 16 and 20 have been amended. No claims are cancelled or newly added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

UNEXAMINED CLAIMS

In the Response filed by Applicants on September 13, 2005, claims 26 and 27 were added. In the November 25, 2005 Office Action, the Examiner improperly failed to address these claims. This omission was noted in the Response accompanying the Request for Continued Examination filed March 27, 2006, yet the Examiner has again improperly failed to address these claims in the May 23, 2006 Office Action. Applicants request that these claims be examined on their merits with the rest of the pending claims, and note that any rejection of these claims may not be made final, as they have not been previously rejected.

REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected claims 1-27 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 6,816,898 to Scarpelli et al. ("Scarpelli") in view of U.S. Patent No. 6,842,781 to Lavian et al. ("Lavian"). Applicants traverse this rejection because the Examiner has failed to establish a *prima facie* case of obviousness, for at least the reason that the references relied upon by the Examiner, either alone or in combination with one another, do not teach or suggest all the features of the claimed invention.

More particularly, Scarpelli does not teach or suggest at least the feature of "selecting one of a plurality of agent templates based on one or more of the characteristics of the selected network device," as recited in claim 1, for example. The Examiner appears to identify col. 7, lines 14-27, and Figs. 6A and 7 of Scarpelli as allegedly teaching this feature. However, Scarpelli appears to relate to integrating user-

created scripts, which may monitor network services, into a network management system. The Examiner appears to equate the user-created scripts with the claimed "agent templates," and the activation of the scripts with the claimed "instantiating." See Office Action at p. 3, lines 1-5. Applicants disagree with the Examiner's characterization of Scarpelli, for at least the reason that a user-created script, such as a shell script written in the PERL programming language (col. 7, lines 13-21, "the script can be in any shell script language, PERL, or any similar program language"), does not correspond to an agent template containing a hierarchy of object classes that may be instantiated.

It is well-known that scripting languages do not support object-oriented data structures, such as the claimed "agent templates" or "object classes." Rather, scripts are most often interpreted and only interact with other programs through a set of functions provided by the interpreter. Scarpelli acknowledges distinctions between scripts and object-oriented programs, indicating that devices or applications may be defined as objects (col. 9, lines 42-51, "everything that is managed by the network performance monitoring system is defined as a Managed Object (MO). These may be devices, applications or servers").

Notably, however, Scarpelli does not teach or suggest object-oriented program structures for actually managing or monitoring the objects. Thus, Scarpelli fails to teach or suggest the feature of "selecting one of a plurality of agent templates based on one or more characteristics of the selected network device," as alleged by the Examiner. For at least this reason, the references relied upon by the Examiner, either alone or in combination with one another, fail to teach or suggest all the features of the claimed invention. Accordingly, the rejection is improper and must be withdrawn.

Moreover, based on the distinctions between script programs and object-oriented programs, Scarpelli does not teach or suggest "instantiating an agent object from the object class of the agent template," as recited in claim 1, for example. The Examiner appears to identify col. 7, lines 22-27 and col. 8, lines 55-67 of Scarpelli as allegedly teaching this feature. See Office Action at p. 3, lines 3-5. At best, even assuming *arguendo* that a script could correspond to the claimed "agent template," the activation

of scripts described by Scarpelli would amount to instantiating the “agent template” itself. In contrast, claim 1 recites “instantiating an agent object from the object class of the agent template.” Because the script of Scarpelli is not an object that can be instantiated, and because Scarpelli teaches activating scripts rather than objects from a script template, Scarpelli fails to teach or suggest the feature of “instantiating an agent object from the object class of the agent template.” For at least this reason, the references relied upon by the Examiner, either alone or in combination with one another, fail to teach or suggest all the features of the claimed invention. Accordingly, the rejection is improper and must be withdrawn.

Additionally, the Examiner acknowledges that Scarpelli does “not expressly indicate . . . the templates comprising the hierarchy of object classes,” but nonetheless alleges that Scarpelli teaches “[i]nstantiating an agent object from the object class of the agent template.” See Office Action at p. 3, lines 3-9. The Examiner’s position is improper for at least the reason that the Examiner alleges that Scarpelli teaches this feature, while also acknowledging that Scarpelli does not teach this feature. Thus, the rejection fails for at least this inconsistency.

For at least the reasons set forth above, the references relied upon by the Examiner, either alone or in combination with one another, fail to teach or suggest all the features of the claimed invention. Accordingly, the rejection is improper and must be withdrawn.

Lavian fails to make up for the deficiencies of Scarpelli discussed above. For at least these reasons, the references relied upon by the Examiner, either alone or in combination with one another, fail to teach or suggest all the features of the claimed invention. Accordingly, the rejection is improper and must be withdrawn.

Claims 9, 17, and 25 include features similar to those set forth in claim 1. Claims 2-8, 10-16, 18-24, and 26-27 depend from and add features to one of claims 1, 9, 17, or 25. Thus, the rejections of these claims are likewise improper and must be withdrawn for at least the same reasons.

CONCLUSION

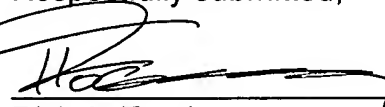
Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: **August 22, 2006**

Respectfully submitted,

By:



Rick A. Toering
Registration No. 43,195

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Main: 703-770-7900
Fax: 703-770-7901